

EPA TSCA PCB Inspection: What to Expect 40 CFR Part 761

7/3/03



Texas Department of Health

Gordon Leeks, R.S.

TSCA PCB Inspector

Purpose of Inspection

- Determine the level of compliance at your facility with the PCB regulations codified as 40 CFR Part 761



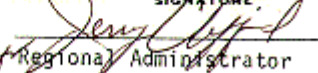
PCB Compliance Inspections: How Sites are Selected

- Scheduled through EPA region 6 on a neutral selection scheme
- Scheduled due to a complaint from a member of the public
- Referral from other agencies or EPA offices
- Conducted unannounced, but during normal business hours

Inspection Process

- Opening conference
 - Presentation of credentials

Inspector's Credentials

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY STATE INSPECTOR'S CREDENTIAL	
This is to certify that <u>GORDON LEEKS, R.S.</u>	
an employee of the State of <u>TEXAS DEPT. OF HEALTH</u> whose signature and photo appear below, is a duly designated representative of the Administrator of the U.S. Environmental Protection Agency.	
	Name: <u>GORDON LEEKS, R.S.</u> Title: <u>INSPECTOR</u> This individual is authorized to conduct inspections under Section 11 of the Toxic Substances Control Act (TSCA), 15 USC 2610. This individual, however, is not authorized to have access to TSCA confidential business information.
I.D. NUMBER <u>TX 070</u>	 SIGNATURE  Regional Administrator

Opening Conference

–Signing of
TSCA Notice of Inspection Form



United States Environmental Protection Agency
Washington, D.C. 20460
Toxic Substances Control Act
NOTICE OF INSPECTION

Form Approved
OMB No. 2070-0007
Approval Expires 07-31-96

The public reporting burden for this collection of information is estimated to average 5 minutes per response. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information to the Chief, Information Policy Branch (PM-223), US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ATTENTION: Desk Officer for EPA.

1. Investigation Identification		2. Time	3. Firm Name
Date	Inspector No.	Daily Seq. No.	
4. Inspector Address			5. Firm Address

REASON FOR INSPECTION

Under the authority of Section 11 of the Toxic Substances Control Act:

☐ For the purpose of inspecting (including taking samples, photographs, statements, and other inspection activities) an establishment, facility, or other premises in which chemical substances or mixtures or articles containing same are manufactured, processed or stored, or held before or after their distribution in commerce (including records, files, papers, processes, controls, and facilities) and any conveyance being used to transport chemical substances, mixtures, or articles containing same in connection with their distribution in commerce (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of the Act applicable to the chemical substances, mixtures, or articles within or associated with such premises or conveyance have been complied with.

☐ In addition, this inspection extends to (Check appropriate blocks):

☐ A. Financial data

☐ D. Personnel data

☐ B. Sales data

☐ E. Research data

☐ C. Pricing data

The nature and extent of inspection of such data specified in A through E above is as follows:

Certification

I certify that the statements I have made on this form and all attachments thereto are true, accurate, and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.

Inspector Signature		Recipient Signature	
Name		Name	
Title	Date Signed	Title	Date Signed

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Opening Conference (Cont.)

- Signing of
TSCA Inspection Confidentiality Notice



U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

TOXIC SUBSTANCES CONTROL ACT

TSCA INSPECTION CONFIDENTIALITY NOTICE

Form Approved
OMB No. 2070-0007
Expires 3-31-88

1. INVESTIGATION IDENTIFICATION		2. FIRM NAME
DATE	INSPECTOR NO. TX-070	DAILY REG. NO. 01
3. INSPECTOR NAME Gordon Leeks		4. FIRM ADDRESS
5. INSPECTOR ADDRESS Texas Department of Health 1100 West 49th Street Austin, Texas 78756		6. CHIEF EXECUTIVE OFFICER NAME
		7. TITLE

TO ASSERT A CONFIDENTIAL BUSINESS INFORMATION CLAIM

It is possible that EPA will receive public requests for release of the information obtained during inspection of the facility above. Such requests will be handled by EPA in accordance with provisions of the Freedom of Information Act (FOIA), 5 USC 552; EPA regulations issued thereunder, 40 CFR Part 2; and the Toxic Substances Control Act (TSCA), Section 14. EPA is required to make inspection data available in response to FOIA requests unless the Administrator of the Agency determines that the data contain information entitled to confidential treatment or may be withheld from release under other exceptions of FOIA.

Any or all the information collected by EPA during the inspection may be claimed confidential if it relates to trade secrets or commercial or financial matters that you consider to be confidential business information. If you assert a CBI claim, EPA will disclose the information only to the extent, and by means of the procedures set forth in the regulations cited above governing EPA's treatment of confidential business information. Among other things, the regulations require that EPA notify you in advance of publicly disclosing any information you have claimed as confidential business information.

A confidential business information (CBI) claim may be asserted at any time. You may assert a CBI claim prior to, during, or after the information is collected. The declaration form was developed by the Agency to assist you in asserting a CBI claim. If it is more convenient for you to assert a CBI claim on your own stationery or by marking the individual documents or samples "TSCA confidential business information," it is not necessary for you to use this form. The inspector will be glad to answer any questions you may have regarding the Agency's CBI procedures.

While you may claim any collected information or sample as confidential business information, such claims are unlikely to be upheld if they are challenged unless the information meets the following criteria:

1. Your company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without your company's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to your company's competitive position.

At the completion of the inspection, you will be given a receipt for all documents, samples, and other materials collected. At that time, you may make claims that some or all of the information is confidential business information.

If you are not authorized by your company to assert a CBI claim, this notice will be sent by certified mail, along with the receipt for documents, samples, and other materials to the Chief Executive Officer of your firm within 2 days of this date. The Chief Executive Officer must return a statement specifying any information which should receive confidential treatment.

The statement from the Chief Executive Officer should be addressed to:

Ms. Lou Roberts
U.S. ENVIRONMENTAL Protection Agency
(61-PT)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

and mailed by registered mail with return receipt requested mail within 7 calendar days of receipt of this Notice. Claims may be made any time after the inspection, but inspection data will not be entered into the special security system for TSCA confidential business information until an official confidentiality claim is made. The data will be handled under the agency's routine security system unless and until a claim is made.

TO BE COMPLETED BY FACILITY OFFICIAL RECEIVING THIS NOTICE		If there is no one on the premises of the facility who is authorized to make business confidentiality claims for the firm, a copy of this Notice and other inspection materials will be sent to the company's chief executive officer; if there is another company official who should also receive this information, please designate below.
I have received and read the notice.		
SIGNATURE	NAME	
NAME	TITLE	
TITLE	DATE SIGNED	ADDRESS

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Opening Conference (Cont.)

- Discuss Facility's operation and PCB History

Records review

- Annual document logs §761.180(a)(2)
 - Can the PCB inventory be accurately followed through the years in your annual document logs?
- Annual records §761.180(a)(1)
 - Waste manifests
 - Certificates of destruction
- Leak check records §761.30(a)(1)(ix)
- Spill reports §761.125(c)(5)

Inspection Process (Cont.)

- Physical site tour
 - Known PCB equipment in use
 - Marks
 - Leaks
 - Spills
 - Long term and temporary storage for disposal facilities
 - Length of storage
 - Leak inspection records

Storage Unit §761.65(b)(1)

- MUST have:
 - Adequate roof and walls
 - Adequate floor with continuous 6” high curbing
 - Adequate containment volume
 - No cracks or openings

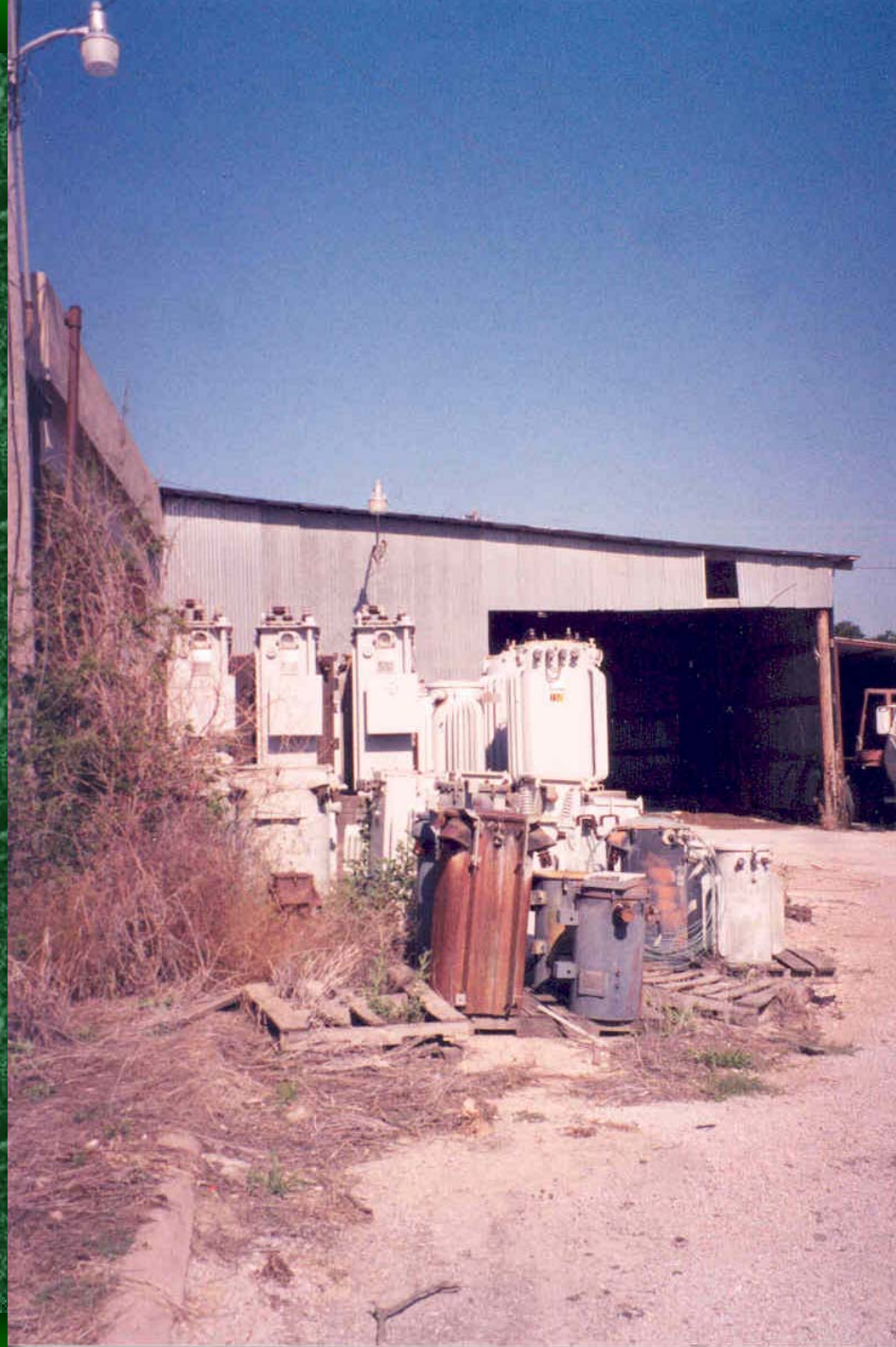


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Storage Unit (Cont.)

- Also MUST have:
 - Continuous, smooth, non-porous floor surface
 - Located above 100 yr. Flood plain





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Inspection Process (Cont.)

- Physical site tour (Cont.)
 - Substations owned by the inspected entity
 - Capacitor banks
 - Possible sample collection
 - Wipe
 - Soil
 - Oil

Comparison of cleanup under the PCB spill cleanup policy and the self-implementing cleanup of PCB Remediation Waste

Query	Spill Cleanup Policy	Self-Implementing Disposal
When can the spill have occurred?	Fresh spills	No restriction
When must cleanup begin?	Within 48 hours of the spill	No limit
Site size restrictions	Approximately 20 feet in diameter	None, designed for moderate sized sites (less than one acre)
Notification to EPA Required?	Greater than 10 Lbs. EPA TSCA program Greater than 1 lb. EPA CERCLA program	§761.61(b) does not REQUIRE notification to EPA to perform cleanup
Cleanup levels	Depends on where the spill is and the kind of material (soil or impervious surface)	Depends on where the spill is and the kind of material (bulk PCB remediation waste/porous surface, non-porous surface or liquid)
Post-Cleanup Verification Sampling	Horizontal/vertical grid, maximum number of samples is 40, options for other procedures	Square-based grid, no limit on number of samples, options for other procedures
Penalty for spill?	There is a presumption against enforcement	Possible
Disposal of Cleanup Wastes	Based on the concentration of the original spilled material	Based on the concentration of the waste as found.

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Time limit for PCB disposal

§761.65(a)(1)

- Total disposal limit from date out of service is 1 year
 - Recommend 9 months for Generator
 - Recommend 3 months for Disposer
 - DOT allows 5 days for Transporter
 - Not applicable if storing for reuse

Inspection Process (Conc.)

- The inspector reviews the findings and observations:
- Closing conference
 - Discuss possible deficiencies
 - Discuss ways to come into compliance, if necessary
 - Sign TSCA receipt for samples and documents form(s)



U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

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RECEIPT FOR SAMPLES AND DOCUMENTS

1 INVESTIGATION IDENTIFICATION			2 COMPANY NAME
DATE	INSPECTION NO.	DAILY SEQ. NO.	
3 INSPECTOR ADDRESS			4. COMPANY ADDRESS

For Internal EPA Use: Copies of this form may be provided to recipient as acknowledgement of the documents and samples of chemical substances and/or mixtures described below collected in connection with the administration and enforcement of the Toxic Substances Control Act.

RECEIPT OF DOCUMENT(S) AND/OR SAMPLE(S) DESCRIBED IS HEREBY ACKNOWLEDGED

NO	DESCRIPTION

OPTIONAL:

DUPLICATE OR SPLIT SAMPLES: REQUESTED AND PROVIDED

NOI REQUESTED

INSPECTOR SIGNATURE _____

CLAIMANT SIGNATURE

NAME _____

NAME _____

TITLE

DATE SIGNED _____

TITLE	
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DATE SIGNED _____

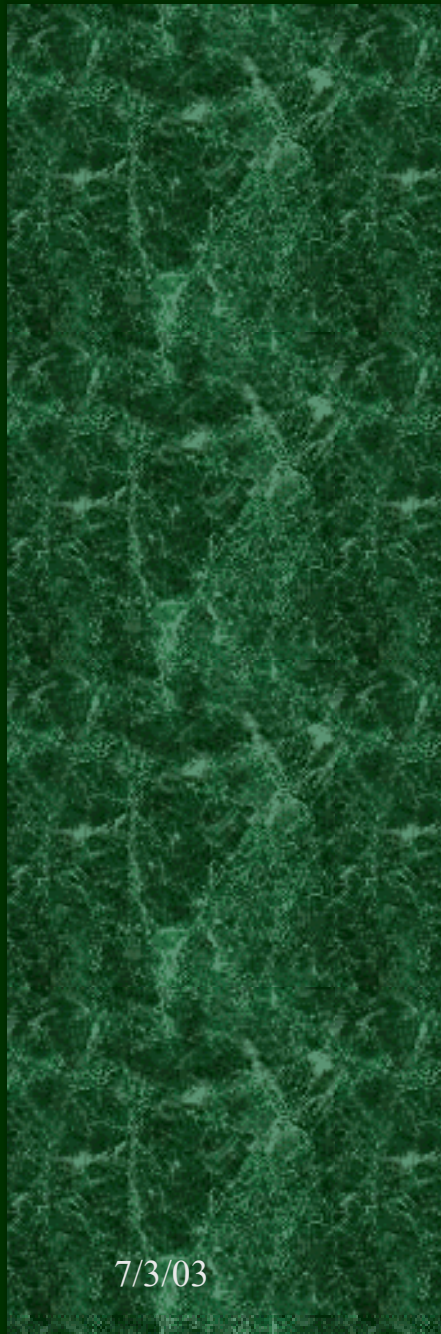
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Common Disposal Deficiencies

- Both leaks and spills
constitute improper disposal

Leak or Leaking §761.3

Means ANY instance in which a PCB article, PCB container or PCB equipment has ANY PCBs on ANY portion of its external surface



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Spills §761.3

Means both intentional and unintentional spills, leaks, and other uncontrolled discharges where the release results in ANY quantity of PCBs running off or about to run off the external surface of the equipment or other PCB source, as well as the contamination resulting from those releases.



Common Disposal Deficiencies (Conc.)

- Make sure the disposal facility you select is authorized and aware of the regulatory requirements (TSCA, RCRA, state, local, etc.)
- <http://www.epa.gov/opptintr/pcb/stordisp.html>

PCB Marking §761.40

- Mark all required items:
 - **Containers**
 - **Transformers**
 - **Capacitors**
 - **Storage units**
- Purpose of marking is a visible warning to anyone servicing or inspecting the items/units

CAUTION

CONTAINS

PCBs

(Polychlorinated Biphenyls)

A toxic environmental contaminant requiring special handling and disposal in accordance with U.S. Environmental Protection Agency Regulations 40 CFR 761--For Disposal Information contact the nearest U.S. E.P.A. Office

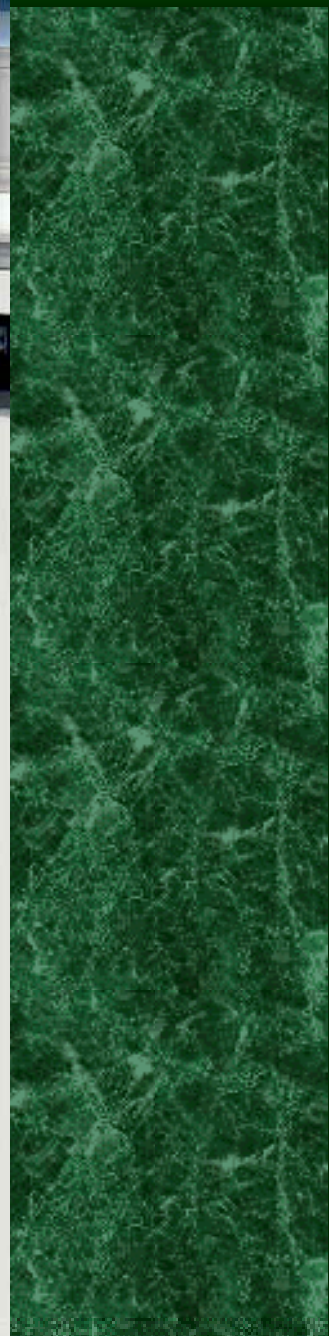
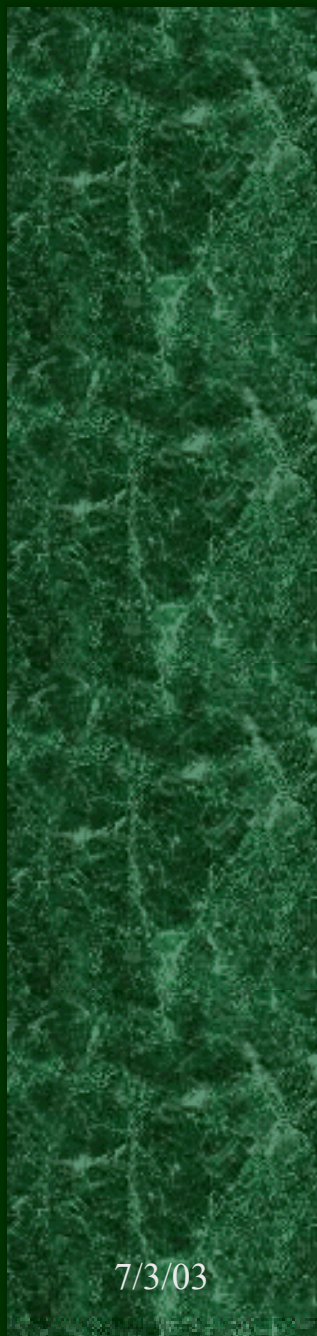
In case of accident or spill, call toll free the U.S.
Coast Guard National Response Center
800:424-8802

**Also Contact
Tel. No.**

PC-6 LABELMASTER CHICAGO, IL 60660



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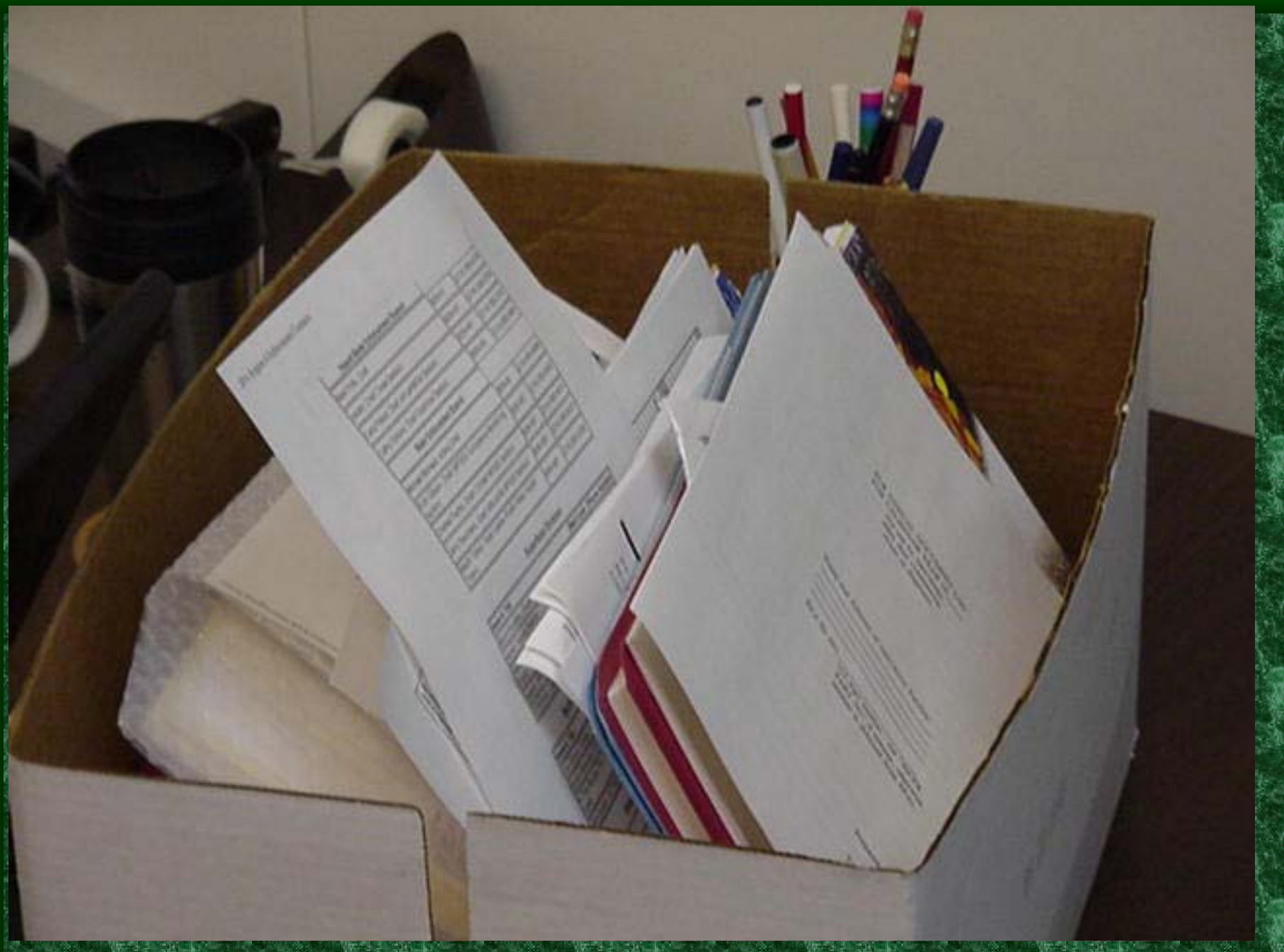


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Record Requirements

- Must have ALL records required by regulations, subpart B, D, G, J and K (when applicable)
- Records must be complete and accurate
- Good record keeping habits and record retention can save considerable time and money.



How to Contact Us?

- Texas department of health
 - 1-800-572-5548
 - (512) 834-6610
 - Gordon.Leeks@tdh.State.tx.Us
 - Ken.Ofunrein@tdh.State.tx.Us
 - <http://www.tdh.state.tx.us/beh/asbestos/TSCA/pcbs.htm>
- U.S. EPA, Lou Roberts
 - Roberts.Lou@epa.Gov
 - (214) 665-7579

QUESTIONS?

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